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Security Council Committee established pursuant to resolution 2206 (2015) concerning South Sudan

Note verbale dated 22 May 2015 from the Permanent Mission of Chile to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Chile to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 2206 (2015) concerning South Sudan and, with reference to the note verbale from the Chair dated 1 April 2015, and in accordance with paragraph 17 of resolution 2206 (2015), has the honour to submit the report on the steps taken by Chile to implement paragraphs 9 and 12 of that resolution (see annex).

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Annex to the note verbale dated 22 May 2015 from the Permanent Mission of Chile to the United Nations addressed to the Chair of the Committee

Report to the Security Council Committee established pursuant to resolution 2206 (2015) concerning South Sudan

1. Chile reiterates its commitment to the full implementation of the resolutions relating to the Security Council Committee established pursuant to resolution 2206 (2015) concerning South Sudan and the provisions of paragraphs 9 and 12 of the resolution. The decision taken by the Security Council has been transmitted to all relevant national authorities for action to ensure compliance with the travel ban and asset freeze on designated persons and entities. The asset freeze also applies to any individuals or entities acting on behalf of, or at the direction of, the designated persons and entities, and to entities owned or controlled by them.

2. Under Chilean law, Security Council resolutions imposing sanctions are implemented by presidential decree. In the case of South Sudan, the appropriate administrative process, which will provide the legal framework for the national institutions to carry out the mandates established by the resolutions, is under way.

3. Without prejudice to Security Council sanctions relating to South Sudan, the authorities are waiting for the consolidated travel-ban and asset-freeze list of persons subject to the sanctions, in order to be able to properly apply them, since the official list has not yet been issued by the Security Council Committee established pursuant to resolution 2206 (2015).

Interministerial committee

4. Decree No. 14, which entered into force on 5 December 2012, established the Interministerial Committee for the Implementation of and Compliance with Security Council Resolutions, to serve as an interministerial coordination body for the implementation of and compliance with all recommendations and measures set out in Security Council resolutions adopted under Chapter VII of the Charter of the United Nations.

5. The Committee comprises representatives of the Ministry of the Interior and Public Safety, the Ministry of Foreign Affairs, the Ministry of National Defence, the Ministry of Finance, the Ministry of the General Secretariat of the Presidency and the Ministry of Justice.

6. The Committee shall have the following functions:

(a) To serve as an interministerial coordination body for the implementation of and compliance with all recommendations and measures set out in Security Council resolutions adopted under Chapter VII of the Charter of the United Nations;

(b) To cooperate in the preparation of reports on compliance by the State of Chile with Security Council resolutions, at the request of the Council or any of its subsidiary bodies (sanctions committees and other bodies);

(c) To carry out any other measures aimed at promoting interministerial cooperation and coordination for the implementation of and compliance with Security Council resolutions.

Ministry of the Interior and Public Safety: travel ban

7. Legislative Decree No. 1.094 of 1975 on foreign nationals in Chile, also known as the Aliens Act, gives the Ministry of the Interior and Public Safety the power to issue entry and residence permits to aliens; extend, deny or revoke such permits; and order the expulsion of aliens. Residence permits for diplomats and aliens applying from outside the country are issued by the Ministry of Foreign Affairs, in accordance with guidelines developed in collaboration with the Ministry of the Interior and Public Safety. Migration-related functions under the jurisdiction of the Ministry of the Interior and Public Safety are carried out by the Office of the Under-Secretary for the Interior, through the Department of Alien Affairs and Immigration.

8. Paragraph 3 of the Aliens Act and paragraph 4 of the Aliens Regulation (Supreme Decree No. 597 of 1984) establish the grounds on which an individual may be denied entry into the country, which are essentially based on health and safety criteria.

9. Pursuant to article 28 of the Aliens Regulation, the Ministry of the Interior and Public Safety is responsible for determining the measures for ensuring that aliens meeting the conditions set out in the Regulation are prohibited from entering the country. To that end, official State agencies, the Ministry of Foreign Affairs, the investigations police, national security agencies, regional administrations and provincial governments shall transmit to the Ministry of the Interior and Public Safety any records they possess in respect of any alien on whom they have adverse information that would prevent that person from being allowed entry into the country.

10. The Regulation establishes that entry bans or restrictions shall be issued through administrative decisions signed by the Under-Secretary of the Interior, by order of the President of the Republic, and shall be applied by the border authorities. Notwithstanding the foregoing, even in the absence of a decision prohibiting an individual from entering the country, under article 29 of the Regulation, border authorities to must, based on the records in their possession, refuse entry to persons who meet any of the conditions that would prevent them from entering the country, pursuant to existing legislation.

11. Under Chilean law, investigations police officers are responsible for monitoring all entries into and departures from the country and for verifying the identity of travellers and the validity and authenticity of their travel documents. Alternatively, in places where no investigations police units exist (20 border crossings, 2 of which are stationary), immigration control functions are carried out by the national police (Carabineros de Chile). At sea ports, where there are no investigations police or national police units, those functions are carried out by the port authority.

12. It should be noted that international transport companies have a legal obligation to refuse to transport passengers attempting to travel to Chile without proper documentation to enter the country.

Implementation of the travel-ban measures

13. The Ministry of Foreign Affairs provides the Ministry of the Interior and Public Safety with information on the adoption or renewal by the Security Council

of resolutions imposing sanctions on individuals, along with the lists containing personal information on each of the individuals concerned, to enable it to apply the appropriate migration measures. The Ministry of the Interior and Public Safety then passes that information on to the Department of Alien Affairs and Immigration for appropriate action.

14. The Department of Alien Affairs and Immigration drafts the decision prohibiting the persons on the lists from entering the country, which is then signed by the Under-Secretary for the Interior, in accordance with existing legislation. While the decision is being drafted, the Department of Alien Affairs and Immigration sends copies of the Security Council resolutions and the lists of the individuals that should be banned from entering the country to the investigations police by the quickest means possible. In so doing, those persons will be prevented from entering the country with immediate effect, pursuant to article 29 of the Aliens Regulation.

15. The Ministry of Foreign Affairs, the investigations police and the national police are informed of the decision of the Under-Secretary for the Interior prohibiting certain individuals from entering the country.

Detection at the border: investigations police and national police

16. Entry bans received from the Department of Alien Affairs and Migration are entered into the computer system of the investigations police, known as the Police Management System, which is also used to record information on Chilean nationals and aliens with records in the databases of the International Criminal Police Organization (INTERPOL).

17. During the immigration control process, data on the individual in question are cross-referenced against the data contained in the Police Management System. If the individual is the subject of an international arrest warrant, more commonly known as a Red Notice, the INTERPOL National Central Bureau is contacted to have the situation clarified and the individual arrested before a decision is taken on whether or not to allow the person to enter the country.

18. The national police maintains a database of entry bans received from the Department of Alien Affairs and Immigration, which is consulted during the immigration control process, along with INTERPOL databases, through telephone communication with the investigations police.

19. As the entity responsible for implementing the National Intelligence System, the National Intelligence Agency, which is under the Ministry of the Interior and Public Safety, has incorporated into its databases the consolidated list of persons subject to a travel ban under Security Council resolution 2206 (2015). These databases are consulted by all institutions involved in the process of authorizing the entry of foreign nationals into the country. Consequently, no individual on the consolidated Security Council travel-ban lists can enter Chile.

20. Furthermore, in accordance with the legal framework for the implementation of Security Council sanctions, it is the responsibility of the Department of Alien Affairs and Immigration of the Ministry of the Interior and Public Safety to determine when to deny entry to or expel a foreign national.

21. Lastly, that State actors face difficulties in handling the consolidated travel-ban lists, because they do not have sufficient information that would give them greater assurance in tha regard. Avoiding the erroneous application of sanctions against individuals with he same name as individuals on the list is a key element of compliance.

Asset freeze

22. The Ministry of Finance is the competent national authority to implement the asset-freeze measures established by Security Council resolutions.

23. To ensure the implementation of such measures, the Financial Analysis Unit provides the lists of designated persons and entities to institutions with reporting obligations under Act No. 19.913, with through its website (http://www.uaf.cl/asuntos/sanciones_onu.aspx), to enable them to cross-reference the lists with their client databases to ensure that they are not dealing with any such persons or entities. Even where there are no legal powers to freeze assets, as required by Security Council resolutions, if institutions with reporting obligations under Act No. 19.913 discover that they are dealing with any designated persons or entities, or any person or entity acting on behalf of such persons or entities, they may submit a suspicious transaction report on money-laundering in connection with the financing of terrorism to the Financial Analysis Unit. Once the situation has been confirmed through financial intelligence processes, the Financial Analysis Unit transmits the information to the Public Prosecutor's Office in order that the latter may request that the appropriate protective measures be taken to freeze the assets in question.

24. Furthermore, the national strategy to prevent and combat money-laundering and the financing of terrorism was developed in December 2013. As part of the action plan under that strategy, 20 public agencies will work together to protect the Chilean economy against both crimes. The International Monetary Fund and the Inter-American Development Bank provided technical advice on the implementation of that action plan.

25. With regard to the rationale behind the application of sanctions, it should be recalled that relevant Security Council decisions have reflected a more refined approach to the design, application and implementation of mandatory sanctions. These refinements have included measures targeted at specific actors, as well as humanitarian exceptions embodied in Security Council resolutions, with the aim of avoiding the possible adverse impact of sanctions on the most vulnerable segments of the population.

26. Lastly, once the list of persons designated by the Security Council Committee established pursuant to resolution 2206 (2015) is drawn up, the Financial Analysis Unit will be able to publish it, to allow institutions with reporting obligations under Act No. 19.913 to cross-reference the list with their client databases and determine whether or not they have carried out operations or transactions with such persons.